



New Hampshire RSA 147-A:6 Transporter Registration

Transporter Registration. The department shall administer and enforce the transporter program.

I. Any transporter of hazardous waste within the state shall annually register with the department using forms provided by the department before engaging in the transportation of hazardous wastes, unless conditionally exempted by rules adopted pursuant to RSA 147-A:3, XXV.

II. Information submitted with each registration application and registration renewal application shall include:

- (a) Transporter's name;
- (b) Mailing address of transporter's office;
- (c) Telephone number of the transporter's office;
- (d) The name and title of a contact person;
- (e) The transporter's U.S. EPA identification number;
- (f) The transporter's U.S. DOT motor carrier census number or interstate commerce commission number;
- (g) The Research and Special Programs Administration of the United States Department of Transportation registration number, if applicable;
- (h) An attestation that the transporter is in compliance with the financial responsibility requirements of 49 C.F.R. section 387.9.

III. The registration period shall be from July 1, of a given year, to June 30, of the following year. The department shall develop procedures to expedite the registration of transporters who wish to initiate operations in the state during the registration period.

IV. Nothing in this section shall affect in any way any authority the state may have under other statutes to enjoin the operations of a transporter that has been convicted of a violation of a criminal statute relating to its hazardous waste transporter operations.

V. (a) The department may conduct reasonable investigations to determine whether applicants and registrants have sufficient reliability, expertise, integrity, and competence to transport hazardous waste.

(b) Transporters shall notify the department of any change in the information submitted pursuant to paragraph II.

(c) The department may modify, suspend, or revoke a transporter registration if the transporter violates any provision of RSA 147-A, any rules adopted by the commissioner pursuant to RSA 147-A, or any rules adopted by the commissioner of the department of safety pursuant to RSA 21-P:17.

(d) The department may deny a registration application or registration renewal application or suspend or revoke a registration if any of the following apply:

(1) The applicant or registrant fails to demonstrate sufficient reliability, expertise, integrity, and competence to transport hazardous waste.

(2) The applicant or registrant has been convicted of, or pled guilty or no contest to, a felony in any state or federal court during the 5 years before the date of the registration application or registration renewal application.

(3) In the case of a corporation or business entity, any of its officers, directors, partners, key employees, or persons or business entities holding 10 percent or more of its equity or debt liability has been convicted of, or pled guilty or not contest to, a felony in any state or federal court during the 5 years before the date of the registration application or registration renewal application.



The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner



**HAZARDOUS WASTE TRANSPORTER
ANNUAL REGISTRATION RENEWAL FORM**

1. Transporter Name: _____
2. Transporter's Office Mailing Address: _____

3. Transporter's Office Telephone Number: _____
4. Name and Title of Contact Person: _____
5. Transporter's U.S. EPA Identification Number: _____
6. Transporter's U.S. DOT Motor Carrier Census Number or Interstate Commerce Commission Number: _____

7. Transporter's U.S. Research and Special Programs Administration (RSPA) Registration Number (if applicable).
If this number is not applicable, so indicate: _____
8. Verification/Attestation Statement:

I, the undersigned, certify that the transporter above named is in full compliance with the financial responsibility requirements of 49 C.F.R. section 387.9.

Signature of Transporter
(Signatory must be owner, operator, or responsible company official)

Title Date

DES USE

Date Received _____
Complete _____

Initial Registration _____
Subsequent Registration _____



N.H. Department of Environmental Services

29 Hazen Drive, Concord, NH 03301

(603) 271-3503

www.des.nh.gov

Permit Process Questionnaire

The N.H. Department of Environmental Services continually strives to improve its permit processing system. Your response to this questionnaire will assist in this effort. Please answer the following questions by checking the response closest to your experience. We welcome your written comments as well.

Permit type _____ Program Haz. Waste Transporters
Permit # _____ Today's Date _____

1. Staff Performance

- a. Did you have any direct contact with our staff? Yes ☐ No ☐
- b. Did you find the staff professional, courteous and helpful? Yes ☐ Somewhat ☐ No ☐ N/A ☐
- c. Were you able to communicate to the proper person quickly? Yes ☐ Somewhat ☐ No ☐ N/A ☐
- d. Name of staff person _____

2. Process and Procedure

- a. Was the procedure to process the application clearly explained to you? Yes ☐ Somewhat ☐ No ☐ N/A ☐
- b. Was your application accepted as complete when first submitted? Yes ☐ No ☐
- c. From the date your application was accepted as complete, did you receive an answer in the time-frame promised? Yes ☐ Somewhat ☐ No ☐

3. Application

- a. Were the questions simple and easy to understand? Yes ☐ Somewhat ☐ No ☐
- b. Did you understand what information you needed to provide, and were you able to provide that information in the application for the proposed project? Yes ☐ Somewhat ☐ No ☐
- c. Did you require professional assistance in filling out the application? Yes ☐ No ☐
- If DES, name of person _____

4. Application Decision

- a. If your application was conditionally approved, do you feel the conditions on your permit were reasonable and clear? Yes ☐ Somewhat ☐ No ☐ N/A ☐
- b. If your application was denied, did the denial letter clearly state what was denied and why? Yes ☐ Somewhat ☐ No ☐ N/A ☐
- c. Did your denial letter clearly inform you of your options to request reconsideration or appeal? Yes ☐ Somewhat ☐ No ☐ N/A ☐

Comments:

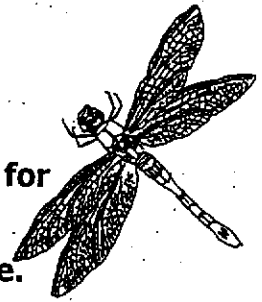
continue on other side ...

From _____

Postage

Public Information & Permitting Unit
N.H. Dept. of Environmental Services
PO Box 95
Concord, NH 03302-0095

**NEW HAMPSHIRE DEPARTMENT OF
ENVIRONMENTAL SERVICES**
committed to helping sustain a high quality of life for
all citizens by protecting and restoring the
environment and public health in New Hampshire.



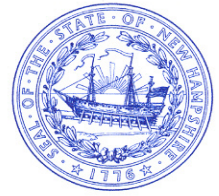
**Visit our website at
www.des.nh.gov**

Additional comments:

When you have completed this questionnaire, please fold it so that the return address is facing out. Seal with tape, attach postage and mail, or hand deliver to DES at 29 Hazen Drive, Concord. We appreciate your willingness to assist us to improve our permit process.



The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

March 1, 2006

Dear Transporter,

The Department of Environmental Services (DES), Waste Management Division is updating its database of service providers and would like to include the Registered Hazardous Waste Transporter list within this database. The information would be used to ensure that we have the correct name, address, and contact person when sending Department information to your business. We also would publish a list of Registered Hazardous Waste Transporter onto the DES website for the public to print and download. If you would like, please include local contact information, as well as, corporate office contact information.

Please provide the following:

Company Name: _____
Address: _____
Town: _____
State: _____
Zip: _____
Corporate Contact: _____
Phone Number: _____
Fax Number: _____
Website Address: _____
Email Address: _____
Local Contact: _____
Local Phone Number: _____
Signature: _____

If you do not want to make your information available to the public, please indicate by placing a checkmark in the box below, sign your name and return this form to Pamela Welch at the address listed below:

Do not list: ☐

Signature: _____

Thank you.

**NEW HAMPSHIRE DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT DIVISION
WASTE MANAGEMENT COMPLIANCE BUREAU**

CLEAN-UP SERVICES

Dear Transporter:

The New Hampshire Department of Environmental, Waste Management Division (DES) frequently receives requests for a list of companies currently providing hazardous waste clean-up services. If your company provides such services and if you wish to have your company's name added to an informational distribution list, please so indicate below:

Company Name: _____

Registration Number: TNH- _____

_____ YES, please add our company's name to your list of active hazardous waste clean-up contractors.

_____ NO, do not add our company's name to your list of active hazardous waste clean-up contractors.

When you have completed this survey, please fold on the lines indicated such that the return address is facing out. Seal with tape, attach postage and mail or hand deliver to the address indicated **by June 30, 2006**. You may also return this survey with your NH Hazardous Waste Transporter Registration Renewal submittal. Thank you in advance for your assistance.

Should you have any questions relative to this inquiry or the hazardous waste transporter registration, Pam Welch can be reached at 603-271-2921.

Fold

PAMELA WELCH
NH DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT DIVISION/RIMS
PO BOX 3900
CONCORD NH 03302-3900

CHAPTER Env-Wm 600 REQUIREMENTS FOR HAZARDOUS WASTE TRANSPORTERS

PART Env-Wm 601 APPLICABILITY AND EXEMPTIONS

Env-Wm 601.01 Applicability.

(a) Env-Wm 600 shall apply to all persons transporting hazardous wastes within or through New Hampshire, including hazardous waste destined for recycling.

(b) In addition to the requirements of Env-Wm 600, a transporter shall comply with the following:

(1) Generator requirements of Env-Wm 500, if the transporter:

a. Transports hazardous waste into the United States from abroad; or

b. Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container;

(2) Transfer facility requirements of Env-Wm 300 and Env-Wm 700, if the transporter operates a transfer facility as defined in Env-Wm 110.01(c); and

(3) Storage facility requirements of Env-Wm 300 and Env-Wm 700, if the transporter stores hazardous waste in excess of 10 days.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 601.02 Exemptions.

(a) Env-Wm 600 shall not apply to the on-site transportation of hazardous wastes by generators or by owners or operators of permitted hazardous waste facilities.

(b) Env-Wm 600 shall not apply to small quantity generators who self-transport 55 gallons or less of their own hazardous waste provided that:

(1) The waste is transported in:

a. Containers meeting the DOT specifications for hazardous materials; and

b. Full, sealed, labeled containers, which are compatible with the waste;

(2) Except as provided in Env-Wm 501.02(c), all manifest requirements of Env-Wm 510 and Env-Wm 604 are met;

(3) The generator has a mechanism for financial responsibility in the following amounts:

a. For bodily injury or death of each person in any one accident, \$50,000.00; and

b. For loss or damage in any one accident to the property of others, \$50,000.00; and

(4) Except as provided in Env-Wm 511.01(f), the waste is transported to a facility authorized under the destination state's rules to handle the hazardous waste.

(c) Env-Wm 600, including the conditions of Env-Wm 601.02(b), shall not apply to government entities that accumulate household hazardous waste and transport this waste in accordance with Env-Wm 501.02 (b).

(d) The rules in Env-Wm 600 shall not apply to universal waste handlers and universal waste transporters transporting universal waste, provided that the waste is managed in accordance with Env-Wm 1100.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7208, eff 2-26-00; ss by #7333, eff 8-1-00; and by #7578, eff 10-13-01

PART Env-Wm 602 TRANSPORTER REGISTRATION

Env-Wm 602.01 Transporter Registration Requirements.

(a) No person shall transport hazardous waste into or within the state of New Hampshire without having a transporter registration issued by the department in accordance with Env-Wm 609.

(b) A copy of the transporter's registration confirmation letter shall be displayed upon request of any peace officer or authorized employee of the department.

(c) No person shall neglect or refuse to display said registration confirmation letter nor refuse to surrender it to such officials for examination.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 603 GENERAL REQUIREMENTS

Env-Wm 603.01 Notification.

(a) All hazardous waste transporters who operate from a New Hampshire location shall notify the department prior to conducting any hazardous waste activities covered under the hazardous waste rules.

(b) Subject to (c) below, all transporters that have not previously notified the department shall do so within 30 days of the effective date of any statutory or regulatory amendments which require the transporter to be registered as a New Hampshire hazardous waste transporter.

(c) If a statute sets a different deadline for notification, the statutory deadline shall control.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96

Env-Wm 603.02 Notification Information Requirements.

(a) Notification shall be done by completing a New Hampshire notification form, including the following information:

- (1) Company name and mailing address;
- (2) New Hampshire business location address;
- (3) Contact person, title and telephone number;
- (4) Transportation method;
- (5) Types of hazardous waste which will be transported; and
- (6) Certification as to the accuracy of the information provided on the notification form.

(b) All transporters shall notify the department in writing of any changes to the information provided pursuant to Env-Wm 603.02(a) within 30 days of such a change.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.03 Notification Determination.

(a) If the department, upon examination of a New Hampshire notification form, finds that the information submitted fails to meet the requirements of Env-Wm 603.02, the department shall notify the transporter in writing of the deficiency.

(b) Such notice shall specify the grounds on which the notification form is deficient.

(c) The transporter shall have 30 days from receipt to respond to such notice of deficiency and to explain or correct the alleged deficiency.

(d) If the transporter does not respond within 30 days the transporter shall be required to re-notify and submit a new notification form.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.04 EPA Identification Number.

(a) A transporter shall not transport hazardous wastes without having received an EPA identification number.

(b) Upon determining that a transporter's notification form is complete, the department, with EPA assistance, shall assign an EPA identification number to the transporter.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.05 Packaging, Labeling, and Placarding.

(a) Transporters shall package and label all hazardous waste before and during shipment in accordance with Env-Wm 603.05(c) and (d) and the requirements of the New Hampshire department of safety as set forth in Saf-C 600.

(b) If a hazardous waste is removed from its container and placed in another container, or if additional hazardous waste is added to the container, the transporter shall comply with the packaging standards set forth in Saf-C 600.

(c) Prior to and during transportation, the transporter shall ensure that each container is labeled and clearly marked with the following:

(1) The words "Hazardous Waste";

(2) The applicable New Hampshire or EPA waste number(s); and

(3) All applicable DOT required information as set forth in 49 CFR Part 172, 10-1-98 edition.

(d) If the label is destroyed or mutilated, if the hazardous waste is removed from its container, or if additional hazardous waste is added to the containers, the transporter shall:

(1) Replace the label with a duplicate label; or

(2) Attach a label stating information pertaining to the hazardous waste now contained in that container; and

(3) Remove or obliterate all previous labels.

(e) The transporter shall placard each vehicle with an appropriate warning of the hazardous waste contained therein in a manner approved by the New Hampshire department of safety as set forth in Saf-C 600.

(f) Any tank, barrel, drum, or other packaging of hazardous waste, which is not a part of the vehicle, shall be secured against movement within the vehicle on which it is being transported.

(g) Transporters shall ensure that all containers of hazardous waste are sealed prior to and during transport.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.06 Vehicle Identification.

(a) Each transporter shall display the following on both sides of all power or waste carrying units used to transport hazardous waste:

(1) The name of the company, corporation, association, or proprietorship;

(2) The city and state where its business office is located; and

(3) The transporter registration number.

(b) Such lettering shall:

(1) Be permanent and legible; and

(2) Contrast with the background.

(c) For Env-Wm 603.06(a)(1) and (3), the lettering shall be a minimum of 3 inches high.

(d) When a vessel or vehicle which has been registered and marked changes ownership, the registrant shall permanently remove the name and transporter registration number from both sides of all power and waste carrying units transferred to the new owner prior to or upon transfer.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.07 Department of Safety Rules. All hazardous waste transporters shall comply with New Hampshire department of safety rules in addition to Env-Wm 600.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.08 Security.

(a) The transporter shall secure all loads of hazardous waste when left unattended so as to minimize exposure by unauthorized individuals.

(b) Vehicles on which the cargo carrying portion can be closed and locked shall be closed and locked whenever the vehicle is left unattended.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 603.09 Personnel Training. All hazardous waste transporters shall comply with the training requirements specified in 49 CFR Part 172 Subpart H, 10-1-98 edition.

[Source.](#) #7333, eff 8-1-00

Env-Wm 603.10 Contingency Plan and Emergency Procedures.

(a) All hazardous waste transporters shall maintain a written current contingency plan and emergency procedures, as specified in (b) below.

(b) The contingency plan and emergency procedures shall include the following information:

(1) A brief description of the actions the transporter will take in the event of a fire, explosion, or discharge of hazardous waste to the air, soil, or surface water;

(2) Names, addresses, and home and office telephone numbers of all persons employed by the transporter who are qualified to act as emergency coordinator;

(3) Telephone number of the department's emergency response team, namely (603) 271-3899, Monday through Friday, 8:00 a.m. to 4:00 p.m.; and

(4) Telephone number of the New Hampshire state police, namely 1-800-346-4009 from New Hampshire phones and (603) 271-3636 from phones outside of New Hampshire, 24 hours per day.

[Source.](#) #7333, eff 8-1-00; amd by #7578, eff 10-13-01

Env-Wm 603.11 Preparedness and Prevention. All hazardous waste transporters shall:

(a) Comply with the preparedness and prevention requirements specified in 40 CFR Part 265 Subpart C, 7-1-99 edition, if hazardous waste is stored in New Hampshire by the transporter for more than 24 hours; and

(b) Notify local emergency officials that hazardous waste is being stored in New Hampshire for greater than 24 hours.

[Source.](#) #7333, eff 8-1-00

Env-Wm 603.12 Financial Responsibility. All hazardous waste transporters shall meet the requirements of 49 CFR section 387.9 10-1-98 edition.

[Source.](#) #7333, eff 8-1-00

PART Env-Wm 604 MANIFESTS

Env-Wm 604.01 General Requirements.

(a) An 8 part manifest shall be used. If a destination state's manifest is being used which does not have 8 parts, additional copies shall be made available for distribution.

(b) The transporter shall not accept hazardous waste without an accompanied manifest signed and completed by the generator in accordance with Env-Wm 510.01, Env-Wm 510.02, Env-Wm 510.03, and Env-Wm 511.01(c).

(c) Each transporter shall sign and date all manifests.

(d) The initial transporter shall return a signed and dated copy of the manifest to the generator before leaving the generator's property.

(e) The transporter shall ensure that 5 copies of the manifest accompany the waste at all times during transit.

(f) A transporter who delivers a hazardous waste to another transporter shall:

(1) Obtain the date of delivery and the handwritten signature of that transporter on the manifest;

(2) Duplicate one copy of the manifest and retain the duplicate in accordance with Env-Wm 607.01; and

(3) Give the remaining copies of the manifest to the accepting transporter.

(g) Upon delivery to the designated or alternate facility, the transporter shall:

(1) Obtain the date of delivery and the handwritten signature of the operator of the designated or alternate facility on the manifest;

(2) Retain one copy of the signed manifest in accordance with Env-Wm 607.01; and

(3) Give the remaining copies of the signed manifest to the operator of the facility.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 604.02 Errors/Discrepancies. The transporter shall initial and date any changes to the manifest made by the transporter.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 604.03 Rail and Water Shipments.

(a) All rail and water shipments shall comply with DOT regulations.

(b) Transporters of such shipments need not carry a manifest but shall retain a manifest or shipping paper in accordance with Env-Wm 607.03.

(c) A shipping paper containing all the information required on the manifest, excluding the generator certification and signatures, and, for exports, an EPA acknowledgment of consent, shall accompany the hazardous waste at all times.

(d) The requirements of Env-Wm 604.01(e), (f) and (g) shall not apply to transporters of bulk shipments delivered by water to the designated facility if:

(1) The transporter delivering the hazardous waste to the initial bulk shipment water transporter shall:

- a. Obtain the date of delivery and signature of the water transporter on the manifest;
- b. Forward the manifest to the designated facility; and
- c. Retain a copy of the signed manifest in accordance with Env-Wm 607.01;

(2) The final water transporter delivering the hazardous waste to the designated facility obtains the date of delivery and handwritten signature of the operator of the designated facility on either the manifest or the shipping paper; and

(3) Each water transporter retains a copy of the manifest or shipping paper in accordance with Env-Wm 607.03.

(e) For rail shipments, transporters need not comply with the requirements of Env-Wm 604.01(e), (f) and (g), but shall meet the following requirements:

(1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter shall:

- a. Sign and date the manifest or shipping paper, acknowledging acceptance of the hazardous waste;
- b. Return a copy to the delivering non-rail transporter; and
- c. Forward the remaining copies to:

1. The next non-rail transporter, if any;
2. The designated facility, if the shipment is delivered to that facility by rail; or
3. The last rail transporter designated to handle the hazardous waste in the United States;

- (2) When delivering hazardous waste to a non-rail transporter, a rail transporter shall obtain the date of delivery and handwritten signature of the non-rail transporter on the manifest;
- (3) Before accepting hazardous waste from a rail transporter, a non-rail transporter shall sign and date the manifest and provide a copy to the rail transporter;
- (4) The final rail transporter delivering the hazardous waste to the designated facility shall obtain the date of delivery and handwritten signature of the operator on the manifest, or on the shipping paper if the manifest has not been received by the facility; and
- (5) All rail transporters shall retain a copy of the manifest and/or the shipping paper in accordance with Env-Wm 607.03.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 604.04 International Shipments.

(a) A transporter shall not accept hazardous waste intended for export:

- (1) If the transporter knows the shipment does not conform to the EPA acknowledgment of consent; or
- (2) Unless the transporter ensures that the hazardous waste is accompanied by an EPA acknowledgment of consent attached to the manifest or shipping paper.

(b) Transporters who transport hazardous waste out of the United States shall:

- (1) Indicate on the manifest the date the hazardous waste left the United States;
- (2) Sign the manifest and retain one copy in accordance with Env-Wm 607.04;
- (3) Return a signed copy of the manifest to the generator, the generator state and the destination nation; and
- (4) Give a copy of the manifest to the U.S. customs official at the point of departure from the United States.

Source. (See Revision Note at PART Heading for Env-Wm 110)

#5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 605 RECEIPT

Env-Wm 605.01 Requirements for Receipt. Notwithstanding any other requirements of Env-Wm 600, when liquid hazardous waste will be transferred to a tank on the transport vehicle, the transporter shall:

- (a) Measure by metering, sticking, or weighing, the amount of liquid hazardous waste collected and transferred to the tank; and
- (b) Record the amount of hazardous waste measured on the accompanying manifest.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 606 DELIVERY

Env-Wm 606.01 Requirements for Delivery.

(a) The transporter shall deliver the entire quantity of hazardous waste which the transporter has accepted from a generator or a transporter to:

- (1) A continuing transporter;
- (2) The designated authorized facility on the manifest;
- (3) The alternate facility designated if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
- (4) The facility outside the United States designated by the generator.

(b) The transporter shall obtain the date of delivery and the handwritten signature from the next transporter or the facility operator on the manifest or shipping paper.

(c) The transporter shall deliver hazardous waste to a destination as described in Env-Wm 606.01(a) within 10 days of the time the hazardous waste leaves the generator's facility.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7208, eff 2-26-00; ss by #7333, eff 8-1-00

Env-Wm 606.02 Inability to Deliver.

(a) If a transporter is unable to deliver all or part of a hazardous waste shipment, the transporter shall:

(1) Contact the generator and;

(2) Either:

a. Return the hazardous waste to the generator; or

b. Deliver the hazardous waste to an alternate permitted facility designated by the generator.

(b) The transporter shall enter the name of the generator or the designated facility in manifest item 9 or 19 in accordance with the generator's instructions.

(c) The original manifest or a copy of the original manifest shall accompany the rejected shipment.

(d) If an entire shipment is rejected and the original manifest is used, the transporter shall:

(1) Return the hazardous waste, with the original manifest to either the generator or the designated alternate facility; and

(2) Obtain the date of delivery and the handwritten signature from the generator or the designated alternate authorized facility in manifest item 20.

(e) If an entire or partial shipment is rejected and a photocopy of the manifest is used because the rejecting facility has already signed manifest item 20 then the transporter shall obtain a certification of receipt from the operator or generator.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 607 RECORDKEEPING AND REPORTING

Env-Wm 607.01 Recordkeeping.

(a) Transporters shall keep a copy of each manifest signed by the generator, any prior transporters, themselves, and the next designated transporter or operator of the authorized facility for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

(b) Manifests may be retained on microfiche or any other electronic media if certified by an authorized company official and available during inspection by the department.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 607.02 Annual Reporting. Registered transporters who transport used oil pursuant to Env-Wm 807.07 shall meet the annual reporting requirements of Env-Wm 807.07(d) through (g).

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 607.03 Rail and Water Shipments.

(a) In the case of bulk shipments delivered by water to the designated facility, each water transporter shall retain a copy of the manifest or shipping paper signed by the next transporter or designated facility for a period of 3 years from the date of acceptance by the initial transporter.

(b) In the case of rail shipments:

(1) The initial rail transporter shall retain a copy of the manifest and the shipping paper for 3 years from the date the hazardous waste was accepted by the initial transporter;

(2) Intermediate rail transporters shall retain a copy of the manifest or the shipping paper for the 3 year period; and

(3) The final rail transporter shall retain a copy of the signed manifest or the shipping paper if signed by the designated facility in lieu of the manifest for the 3 year period.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; moved by #6385-B, eff 11-26-96 (from Env-Wm 607.02); ss by #7333, eff 8-1-00

Env-Wm 607.04 Export Shipments. A transporter who transports hazardous waste out of the United States shall keep a copy of the manifest indicating that the hazardous waste left the United States for a period of 3 years from the date the hazardous waste was accepted by the initial transporter.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; moved by #6385-B, eff 11-26-96 (from Env-Wm 607.03); ss by #7333, eff 8-1-00

Env-Wm 607.05 Retention of Records During Enforcement Actions. The period of retention referred to in Env-Wm 607.01, Env-Wm 607.02 and Env-Wm 607.03 shall be extended automatically during the course of any unresolved enforcement action regarding

the regulated activities.

[Source.](#) #6385-B, eff 11-26-96 (from Env-Wm 607.04, originally #5886, eff 8-26-94); ss by #7333, eff 8-1-00

PART Env-Wm 608 EMERGENCY/REMEDIAL ACTION

Env-Wm 608.01 Immediate Action.

(a) The transporter shall report any discharge of hazardous waste or any discharge of a material which when discharged becomes a hazardous waste that poses a threat to human health or the environment, for example, into storm or sanitary sewers, onto the land or into the air, groundwater or surface waters.

(b) An air, rail, highway, or water transporter who has discharged hazardous waste shall:

(1) Immediately notify local emergency officials;

(2) Immediately, not to exceed one hour from the discovery of the release, notify the department at 603-271-3899, Monday through Friday, 8:00 a.m. to 4:00 p.m. or the New Hampshire department of safety at 1-800-346-4009 from New Hampshire phones and 1-603-271-3636 from phones outside of New Hampshire, 24 hours per day;

(3) Notify the National Emergency Response Center at 1-800-424-8802, 24 hours per day if required by 49 CFR 171.15, 10-1-98 edition;

(4) Report in writing to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590 if required by 49 CFR 171.15 and 49 CFR 171.16, 10-1-98 edition; and

(5) For water transporters only, report the same notices as required by 33 CFR 153.203 for oil and hazardous substances.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 608.02 Discharge Cleanup.

(a) A transporter shall immediately contain and clean up, within 24 hours, any hazardous waste discharge or any discharge of a material which when discharged becomes a

hazardous waste that occurs while the hazardous waste is under the control of the transporter.

(b) If the hazardous waste discharge cannot be or is not cleaned up within 24 hours of the occurrence the transporter shall submit a clean up plan to the department, within 5 days of the discharge.

(c) The clean up plan shall:

(1) Provide for the protection of human health and the environment;

(2) Provide for the removal and proper disposal of the contamination source;

(3) Provide for confirmatory analysis of the potentially affected media, for example, soil, groundwater, or surface water, to demonstrate the clean up is successful; and

(4) Include a time table for completion of the clean up plan.

(d) The department shall review the clean up plan and approve it upon determining that the clean up plan meets the criteria set forth in paragraphs (c) above.

(e) The transporter shall implement the clean up plan as approved by the department pursuant to paragraph (d) above.

(f) Within 30 days of completion of the clean up, the transporter shall submit a report to the department detailing the actions taken.

(g) If the complete clean up can not be accomplished in accordance with paragraphs (b) through (f) above, the transporter shall submit a scope of work proposal for site investigations pursuant to Env-Wm 1403 to evaluate the potential impacts of the release on soil and groundwater.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 608.03 Waivers of Manifest, Permit, and Registration Requirements.

(a) In the event of a discharge during generation, transportation, treatment, storage, or disposal of a hazardous waste or material, the department shall, during the response to the event, waive any part of the manifest, permit, registration or any such requirements if the action:

(1) Is necessary to facilitate a prompt response; and

(2) Will protect human health and the environment.

(b) A person shall not be required to obtain a permit for treatment or containment activities taken during immediate response to any of the following situations:

(1) An unplanned discharge of a hazardous waste;

(2) An imminent and substantial threat of a discharge of hazardous waste; or

(3) A discharge of a material which, when discharged, becomes a hazardous waste.

(c) Any person who continues or initiates hazardous waste treatment or containment activities after the emergency response is over shall be subject to all applicable permitting requirements for those activities.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

PART Env-Wm 609 REGISTRATION OF HAZARDOUS WASTE TRANSPORTERS

Env-Wm 609.01 Registration Process.

(a) As required by RSA 147-A:6, an applicant for a transporter registration shall provide the following information on forms provided:

(1) The name, address, and telephone number of the transporter;

(2) The name and title of the contact person;

(3) The transporter's DOT motor carrier census number or the interstate commerce commission number, and the transporter's EPA identification number;

(4) The transporter's U.S. Research and Special Programs Administration ("RSPA") registration number if applicable; and

(5) An attestation that the transporter complies with the financial responsibility requirements of 49 CFR 387.9, 10-1-98 edition.

(b) A transporter seeking to renew a transporter registration shall submit the application on or before May 15 of the calendar year.

(c) The department shall return incomplete transporter registration applications to the applicant.

(d) All transporters shall provide, upon the request of the department, copies of the following:

- (1) The name, address, EPA identification number, and phone number of the transporter's principal place of business and any regional offices, if applicable;
- (2) The name, address, phone number, and EPA identification number of any company which owns, in whole or in part, the company that owns the vehicle being inspected, if applicable;
- (3) The names, addresses, titles, and dates of birth of all corporate officers and all stockholders owning greater than 10% of the transporter's outstanding shares or debt equity;
- (4) The names of all individuals or business firms which contract to perform part or all of the transportation of hazardous waste under the transporter's registration;
- (5) The types of hazardous wastes that the transporter transports;
- (6) The generators for whom the transporter transports hazardous waste;
- (7) A description of the transporter's introductory and continuing personnel training programs as required by 49 CFR 172 Subpart H, 10-1-98 edition;
- (8) A contingency plan and emergency procedures plan as required by Env-Wm 603.10;
- (9) A copy of the certificate of insurance or other proof of financial responsibility as required by Env-Wm 609.01(a)(5);
- (10) A list of currently valid hazardous waste transporter permits or registrations from other states, including the state, expiration date, and the years held;
- (11) Copies of any letters of commendation received by the transporter;
- (12) A list of any other names under which the company has been known or done business within the past 5 years;

(13) Copies of any notices of violation, administrative orders, notices of suspension or denial, and civil or criminal actions completed or pending from or before state or federal agencies;

(14) A list of any pending suits, including any civil suits in which the company is presently involved as a plaintiff or defendant;

(15) A list of any environmental permits held by the transporter which have been revoked or suspended; and

(16) Information regarding any convictions or pleas of guilty or no contest to a felony committed by the transporter or, in the case of a corporation or business entity, of any of its officers, directors, partners, or persons or business entities holding 10 percent or more of its equity or debt liability who has pled guilty or no contest to a felony in any state or federal court during the 5 years before the date of the registration by the transporter.

[Source.](#) #7333, eff 8-1-00

Env-Wm 609.02 Transporter Registration. A transporter registration shall:

(a) Not be transferable; and

(b) Expire on the date specified on the registration.

[Source.](#) #7333, eff 8-1-00

Env-Wm 609.03 Registration Modification.

(a) The transporter shall notify the department in writing within 15 days of any of the following:

(1) A name change for the transporter;

(2) A change in physical or mailing address of the transporter;

(3) A change of company contact of the transporter;

(4) A change in telephone number of the transporter;

(5) A change in the EPA identification number of the transporter;

(6) A change in ownership or operational control as provided in (b) below; and

(7) A change in majority of voting shares to a new individual or entity.

(b) A change in ownership or operational control of the transporter shall be as follows:

(1) For a partnership, a change in the majority of general partners;

(2) For a corporation, a transfer of all corporate assets or of a majority of voting shares to a new individual or entity;

(3) For other organizations, a transfer of the control of the organization to a new individual or entity; and

(4) For an individual, transfer of control to another individual or entity.

[Source.](#) #7333, eff 8-1-00

Env-Wm 609.04 Registration Suspension and Revocation.

(a) The department shall suspend, revoke, or refuse to renew a hazardous waste transporter's authorization to transport hazardous waste if the transporter does not comply with the criteria set forth in Env-Wm 610.02.

(b) Within 30 days of receiving a notice of the department's intent to suspend or revoke a registered transporter's authorization to transport hazardous waste in New Hampshire, the person identified on the registration may request an oral hearing before the department. The oral hearing shall be conducted in accordance with RSA 541-A and Env-C 204.

(c) Within 30 days of receipt of a notice of decision by the hearing officer regarding a registered hazardous waste transporter's suspension or revocation of authorization to transport hazardous waste in New Hampshire, the transporter may appeal the notice of decision to the Waste Management Council pursuant to RSA 21-O:14.

(d) Within 5 days of suspension or revocation, the transporter shall return all original copies of the registration confirmation letter to the department.

(e) Within 15 days of suspension or revocation, the transporter shall:

(1) Notify all New Hampshire customers served during prior year that it is not authorized to transport hazardous waste; and

(2) Publish a notice of suspension/revocation in a statewide newspaper.

[Source.](#) #7333, eff 8-1-00

Env-Wm 609.05 Registration Denial.

- (a) The department shall deny a registration in accordance with RSA 147-A:6, V(d).
- (b) Within 30 days of receipt of a notice of a registration denial, the transporter may appeal such denial to the waste management council in accordance with RSA 21-O:14.

[Source](#). #7333, eff 8-1-00

Env-Wm 609.06 Vehicle and Vessel Requirements.

- (a) Each transporter shall comply with the display requirements of Env-Wm 603.06.
- (b) A copy of the hazardous waste transporter registration confirmation letter shall be carried in each transporter's vehicle or vessel.
- (c) A copy of the hazardous waste transporter registration confirmation letter shall be displayed and surrendered for examination upon request of any federal, New Hampshire, or local law enforcement officer or department representative.
- (d) A copy of the contingency plan shall be carried in each transporter's vehicle.
- (e) The transporter shall carry on board the vehicle spill control equipment such as speedi-dry or absorbent rags.

[Source](#). #7333, eff 8-1-00

PART Env-Wm 610 STANDARDS FOR
HAZARDOUS WASTE TRANSPORTERS WHO
TRANSPORT HAZARDOUS WASTE IN NEW
HAMPSHIRE AND APPLICANTS FOR
TRANSPORTER REGISTRATION

Env-Wm 610.01 Background Investigations. The department shall conduct a background investigation of the registrant or applicant to determine whether the registrant or applicant has sufficient reliability, expertise, integrity, and competence to transport hazardous waste in and through New Hampshire.

[Source](#). #7333, eff 8-1-00

Env-Wm 610.02 Registrant Integrity and Competence. For the purposes of issuing a transporter registration or renewal registration, suspending, revoking or denying a transporter registration or renewal registration, the department shall conclude that the registrant does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste if:

- (a) The registrant continues to transport hazardous waste after allowing the applicable transporter registration(s) to lapse;
- (b) The registrant transports hazardous waste prior to receiving a hazardous waste registration or renewal registration;
- (c) The registrant fails to comply with the financial responsibility requirements of 49 CFR 387.9, 10-1-98 edition;
- (d) Issuance of the registration was based on false or misleading information;
- (e) The registrant's activities covered by the registration presents an immediate and substantial threat to human health or the environment;
- (f) The registrant failed to comply with an order issued by the department or by any state relative to hazardous waste transportation, including an order to undertake corrective measures, unless the transporter is complying in accordance with a compliance schedule and is current with all items;
- (g) The registrant failed to comply with an order issued by the department or by any state relative to a violation of any other statute administered by the department or by any state;
- (h) The registrant owes any administrative fines to the department or to any state, unless the fines are being paid in accordance with a payment schedule and the transporter is current with all payments;
- (i) The registrant owes any fees to the department or by any state, unless the fees are being paid in accordance with a payment schedule and the transporter is current with all payments;
- (j) The registrant owes any civil or criminal penalties imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the penalties are being paid in accordance with a payment schedule and the applicant is current with all payments;
- (k) The registrant failed to comply with any civil or criminal restoration or restitution order imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the applicant is complying in accordance with a compliance schedule and is current with all items; and
- (l) Within 5 years of the application date, the registrant has been the subject of 2 or more administrative or civil enforcement actions or one criminal enforcement action, that have not been overturned on appeal, for violation(s) of:

(1) Any registration or permit issued by the department or by any state; or

(2) Any statute or rule implemented by the department or by any state.

[Source.](#) #7333, eff 8-1-00

Env-Wm 610.03 Applicant Integrity and Competence. For the purposes of issuing or denying a transporter registration, the department shall conclude that the applicant does not have sufficient reliability, expertise, integrity, and competence to transport hazardous waste if:

- (a) The applicant continues to transport hazardous waste after allowing the applicable transporter registration(s) to lapse;
- (b) The applicant transports hazardous waste prior to receiving a hazardous waste registration or renewal registration;
- (c) The applicant fails to comply with the financial responsibility requirements of 49 CFR 387.9, 10-1-98 edition;
- (d) The applicant failed to comply with an order issued by the department or by any state relative to hazardous waste transportation, including an order to undertake corrective measures, unless the transporter is complying in accordance with a compliance schedule and is current with all items;
- (e) The applicant failed to comply with an order issued by the department or by any state relative to a violation of any other statute administered by the department or any state;
- (f) The applicant owes any administrative fines to the department or to any state, unless the fines are being paid in accordance with a payment schedule and the transporter is current with all payments;
- (g) The applicant owes any fees to the department or by any state, unless the fees are being paid in accordance with a payment schedule and the transporter is current with all payments;
- (h) The applicant owes any civil or criminal penalties imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the penalties are being paid in accordance with a payment schedule and the applicant is current with all payments;
- (i) The applicant failed to comply with any civil or criminal restoration or restitution order imposed as a result of a judicial action taken to enforce any statute or rule implemented by the department or by any state, unless the applicant is complying in accordance with a compliance schedule and is current with all items; and

(j) Within 5 years of the application date, the applicant has been the subject of 2 or more administrative or civil enforcement actions or one criminal enforcement action, that have not been overturned on appeal, for violation(s) of:

(1) Any registration or permit issued by the department or by any state; or

(2) Any statute or rule implemented by the department or by any state.

[Source.](#) #7333, eff 8-1-00

CHAPTER Env-Wm 800 REQUIREMENTS FOR RECYCLING OF HAZARDOUS WASTES

PART Env-Wm 801 PURPOSE AND DEFINITIONS

Env-Wm 801.01 Purpose. The purpose of Env-Wm 800 is to:

- (a) Identify those materials that are to be recycled that are wastes and therefore subject to regulation under Env-Wm 804 through Env-Wm 810;
- (b) Identify those materials that are to be recycled that are not wastes and therefore not subject to regulation under the hazardous waste rules; and
- (c) Set forth requirements for the management of materials identified both as wastes and as hazardous wastes, that are to be recycled. Such materials shall be termed recyclable materials.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 801.02 Definitions. For the purposes of Env-Wm 800, the following definitions shall apply:

(a) "Recyclable material" means a material that:

- (1) Is a waste as defined in Env-Wm 110.01(c);
- (2) Is identified as a hazardous waste in Env-Wm 400; and
- (3) Is to be recycled as defined in Env-Wm 801.02(b).

(b) "Recycled" means used, reused, or reclaimed.

(c) "Used oil marketer" means any person who engages in the act of marketing unless exempted under Env-Wm 807.08(a)(2).

(d) The "act of marketing" means the transfer of used oil from one party to another, regardless of monetary considerations; that is, the party supplying the used oil is a "used oil marketer" even if no fee or charge is collected for the transfer.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

PART Env-Wm 802 APPLICABILITY AND EXEMPTIONS

Env-Wm 802.01 Applicability. Subject to Env-Wm 802.02, Env-Wm 800 shall apply to the following persons who manage recyclable materials, as defined in Env-Wm 801.02(a):

- (a) Generators;
- (b) Transporters;
- (c) Owners and operators of facilities that store recyclable materials before they are recycled, including those facilities that also recycle the materials; and
- (d) Owners and operators of facilities that recycle recyclable materials without storing the materials.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 802.02 Exemptions.

(a) The following materials shall not be subject to regulation under the hazardous waste rules:

(1) Industrial ethyl alcohol that is reclaimed, except that:

a. A person initiating a shipment for reclamation in a foreign country and any intermediary arranging for shipment shall:

1. Comply with the requirements applicable to a primary exporter in 40 CFR 262.53, 40 CFR 262.56(a)(1)-(4), 40 CFR 262.56(a)(6), 40 CFR 262.56(b) and 40 CFR 262.57, 7-1-99 edition;

2. Export such materials only upon consent of the receiving country and in conformance with the EPA acknowledgment of consent as defined in Env-Wm 110.01(c); and

3. Provide the transporter with a copy of the EPA acknowledgment of consent for the shipment; and

b. Transporters transporting a shipment for export shall:

1. Not accept a shipment if he/she knows the shipment does not conform to the EPA acknowledgment of consent;

2. Ensure that a copy of the EPA acknowledgment of consent accompanies the shipment; and

3. Ensure that the EPA acknowledgment of consent is delivered to the facility designated by the person initiating the shipment;

(2) Used batteries or battery cells which are:

a. Returned to the manufacturer for regeneration; or

b. Stored, collected, or transported prior to return to the manufacturer for regeneration;

(3) Scrap metal being recycled that is not otherwise exempted under Env-Wm 401.03(a)(9);

(4) Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

(5) Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;

(6) Coke and coal tar from the iron and steel industry that contains EPA hazardous waste number K087 from the iron and steel production process; and

(7) Shredded circuit boards being recycled provided they meet the conditions of Env-Wm 401.03(a)(10).

(8) Mercury-containing dental amalgam waste generated by small quantity generators provided the waste is being recycled;

(b) The recycling process itself shall not be subject to regulation under the hazardous waste rules.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

PART Env-Wm 803 CLASSIFICATION OF MATERIALS BEING RECYCLED

Env-Wm 803.01 Purpose. The purpose of Env-Wm 803, regarding the identification of materials as wastes, is to establish the equivalent of the rules set forth under 40 CFR 261.2(c) through (e), 7-1-99 edition, in New Hampshire rules.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00

Env-Wm 803.02 Categorization. Materials that are to be recycled, as defined in Env-Wm 801.02(b), shall be classified as follows:

(a) Materials that are wastes when recycled, as identified in Env-Wm 803.03, and therefore subject to regulation as recyclable materials under Env-Wm 804 through Env-Wm 810; and

(b) Materials that are not wastes when recycled, as identified in Env-Wm 803.04, and therefore not subject to regulation under the hazardous waste rules.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 803.03 Materials that are Wastes When Recycled.

(a) A material shall be deemed to be a waste when it is recycled, or accumulated, stored, or treated before recycling, by being:

(1) Used in a manner constituting disposal such that it is:

a. Applied to or placed on the land either without mixing or after mixing with any other substances; or

b. Used to produce products that are applied to or placed on the land or is otherwise contained in products that are applied to or placed on the land, in which cases the product itself shall remain a waste, unless it is a commercial chemical product listed in Env-Wm 402.04 and Env-Wm 402.05 being applied to the land in its ordinary manner of use;

(2) Burned for energy recovery such that it is:

a. Burned to recover energy; or

b. Used to produce a fuel or is otherwise contained in fuels, in which cases the fuel itself shall remain a waste;

(3) Reclaimed, except those recycled materials identified in Env-Wm 803.04(b); or

(4) Accumulated speculatively, as determined in Env-Wm 811, except for the recycled materials identified in Env-Wm 803.04(c).

(b) The following recycled materials shall be deemed to be wastes, even if the recycling involves use, reuse, or return to the original process, as described under Env-Wm 803.04(a):

(1) Materials used in a manner constituting disposal, or used to produce products that are applied to the land;

(2) Materials burned for energy recovery, used to produce a fuel, or contained in fuels;

(3) Materials accumulated speculatively;

(4) Inherently waste-like material as defined in Env-Wm 110.01(c); or

(5) Materials classified by the commissioner or designee as inherently waste-like using the following criteria:

a. The materials are ordinarily disposed of, burned, or incinerated, or the materials contain toxic constituents listed in 40 CFR 261 Appendix VIII, 7-1-99 edition, and these constituents are not ordinarily found in raw materials or products for which the materials substitute, or are found in raw materials or products in smaller concentrations, and are not used or reused during the recycling process; and

b. The materials pose a hazard to human health and the environment when recycled.

(c) Notwithstanding (a)(2)b above, a commercial chemical product is not a waste if it is itself a fuel.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

Env-Wm 803.04 Materials that are Not Wastes When Recycled.

(a) Except as set forth in Env-Wm 803.03(b), a material shall not be deemed to be a waste when it can be shown to be recycled by being:

- (1) Used or reused as an ingredient in an industrial process to make a product, provided the material is not being reclaimed;
- (2) Used or reused as an effective substitute for commercial products, provided the material is not being reclaimed; or
- (3) Returned to the original process from which it is generated, without first being reclaimed, if such non-waste material shall be returned as a substitute for raw material feedstock, and the process shall use raw materials as principal feedstocks.

(b) The following materials shall not be deemed to be wastes when recycled by being reclaimed:

- (1) Sludges, as defined in Env-Wm 110.01(c), which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Wm 403;
- (2) By-products, as defined in Env-Wm 110.01(c), which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Wm 403;
- (3) Commercial chemical products listed in Env-Wm 402.04 and Env-Wm 402.05; and
- (4) Commercial chemical products not listed in Env-Wm 402.04 and Env-Wm 402.05 which are deemed to be hazardous solely because they exhibit one or more of the characteristics of hazardous waste set forth in Env-Wm 403 except when they are recycled in ways that differ from their normal manner of use.

(c) The following materials shall not be deemed to be wastes when they are accumulated speculatively, as determined in Env-Wm 811:

- (1) Commercial chemical products listed in Env-Wm 402.04 and Env-Wm 402.05; and
- (2) Commercial chemical products not listed in Env-Wm 402.04 and Env-Wm 402.05 which are deemed to be hazardous solely because they exhibit one or more of the characteristics of

hazardous waste set forth in Env-Wm 403 except when they are recycled in ways that differ from their normal manner of use.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 803.05 Documentation of Claims that Materials are Not Wastes or are Exempt from Regulation. Persons who claim that a certain recycled material is not a waste under the hazardous waste rules or is exempt from regulation under the hazardous waste rules shall:

- (a) Provide documentation, such as a letter from the recycler, to demonstrate to the commissioner that there is a known market or disposition for the material;
- (b) Provide documentation, such as a written explanation of the physical and chemical properties of the material and of the recycling process, to demonstrate to the commissioner that the material and the process meet the criteria of the exemption;
- (c) Provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste or is exempt from regulation; and
- (d) For owners or operators of facilities claiming that they actually are recycling materials, show that they have the necessary equipment to do so.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 804 REQUIREMENTS FOR MANAGEMENT OF RECYCLABLE MATERIALS

Env-Wm 804.01 Requirements.

- (a) Recyclable materials, as defined in Env-Wm 801.02(a), except where specifically exempted under Env-Wm 802.02, shall be managed as set forth in Env-Wm 804.
- (b) Except as set forth in Env-Wm 804.02, persons managing recyclable materials shall comply with the following requirements:
 - (1) Generators of recyclable materials shall be subject to the requirements of Env-Wm 500;
 - (2) Transporters of recyclable materials shall be subject to the requirements of Env-Wm 300 and Env-Wm 600;

(3) Owner and operators of facilities that store recyclable materials before they are recycled, including those facilities that also recycle the materials, shall be subject to the requirements of Env-Wm 300 and Env-Wm 700; and

(4) Owners and operators of facilities that recycle recyclable materials without storing the materials before they are recycled shall be subject to the following:

a. Notification requirements as set forth in Env-Wm 702; and

b. Manifest requirements as set forth in Env-Wm 703.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 804.02 Requirements for Management of Specific Recyclable Materials.

(a) Generators, transporters, and owners and operators of facilities that store recyclable materials before they are recycled, who manage the recyclable materials specified in paragraphs (b) through (f) below, shall not be subject to the requirements of Env-Wm 804.01(b) above, but instead shall be subject to Env-Wm 805 through Env-Wm 809, respectively.

(b) Recyclable materials used in a manner constituting disposal shall be managed in accordance with Env-Wm 805.

(c) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under Env-Wm 707 or Env-Wm 708 shall be managed in accordance with Env-Wm 806.

(d) Used oil being recycled shall be managed in accordance with Env-Wm 807.

(e) Recyclable materials utilized for precious metal recovery shall be managed in accordance with Env-Wm 808.

(f) Spent lead-acid motor vehicle batteries that are being reclaimed shall be managed in accordance with Env-Wm 809 or Env-Wm 1100.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

PART Env-Wm 805 RECYCLABLE
MATERIALS USED IN A MANNER
CONSTITUTING DISPOSAL

Env-Wm 805.01 Requirements.

- (a) Recyclable materials used in a manner constituting disposal as defined in Env-Wm 803.03 shall be subject to the requirements set forth in Env-Wm 805.
- (b) Generators and transporters of recyclable materials that are used in a manner that constitutes disposal shall be subject to the applicable requirements of Env-Wm 300, Env-Wm 500 and Env-Wm 600.
- (c) Owners and operators of facilities, except for generator facilities that store hazardous waste in accordance with Env-Wm 500, that store recyclable materials that are to be used in a manner that constitutes disposal for greater than 90 days, but who are not the ultimate users of the materials, shall be subject to the requirements of Env-Wm 300 and Env-Wm 700.
- (d) Owners and operators of facilities that use recyclable materials in a manner that constitutes disposal, except products that are exempted from regulation under 40 CFR 266.20(b), 7-1-99 edition, shall be subject to the requirements of Env-Wm 300 and Env-Wm 700.
- (e) The following materials shall not be used for dust suppression or road treatment:
 - (1) Discarded oil or other material which is contaminated with dioxin;
 - (2) Any used oil as defined in Env-Wm 110.01(c); and
 - (3) Any hazardous waste or any material contaminated with hazardous waste.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 806 HAZARDOUS WASTE BURNED FOR ENERGY RECOVERY

Env-Wm 806.01 Applicability and Definitions.

- (a) Hazardous waste burned for energy recovery shall be subject to the requirements of Env-Wm 806.

(b) The rules of this section shall apply to hazardous waste fuels, as defined in Env-Wm 806.01(c), that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Env-Wm 707 or Env-Wm 708.

(c) "Hazardous waste fuel" means hazardous wastes that are burned for energy recovery and includes fuel produced from hazardous waste by processing, blending, or other treatment. "Hazardous waste fuel" does not include a gas recovered from hazardous waste management activities when the gas is burned for energy recovery. For the purposes of this paragraph, "gas" means material that is in the gaseous state.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 806.02 Generator Requirements.

(a) Persons who generate hazardous waste that is used as a fuel or is used to produce a fuel shall be subject to the requirements set forth in Env-Wm 500.

(b) Generators who market hazardous waste fuel to a burner shall also be subject to the requirements of Env-Wm 806.04.

(c) Generators who burn hazardous waste fuel shall also be subject to the requirements of Env-Wm 806.05.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 806.03 Transporter Requirements. Transporters of hazardous waste fuel and of hazardous waste that is used to produce a fuel shall be subject to regulation under Env-Wm 600.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

Env-Wm 806.04 Hazardous Waste Fuel Marketer Requirements.

(a) "Hazardous waste fuel marketers (HWF Marketers)" means:

(1) Generators who market hazardous waste fuel directly to a burner;

(2) Persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes; and

(3) Persons who distribute but do not process or blend hazardous waste fuel.

(b) HWF marketers shall be subject to the following requirements:

(1) The notification requirements of Env-Wm 702;

(2) The permitting requirements of Env-Wm 300, if applicable, and the accumulation and storage requirements set forth in Env-Wm 500 and Env-Wm 700; and

(3) The requirements set forth in Env-Wm 500 when a HWF marketer initiates a shipment of hazardous waste fuel.

(c) Even if a HWF marketer has previously notified EPA or the department of hazardous waste management activities and obtained an EPA identification number, the HWF marketer shall re-notify to specifically identify hazardous waste fuel activities.

(d) Before a HWF marketer initiates the first shipment of hazardous waste fuel to a burner or another HWF marketer, the HWF marketer shall obtain a one-time written and signed notice from the recipient certifying that:

(1) The recipient of the fuel has notified the department to identify the recipient's waste-as-fuel activities; and

(2) If the recipient is a hazardous waste fuel burner, as defined in Env-Wm 806.05(a), the recipient will burn the hazardous waste fuel only in an industrial furnace or boiler identified in Env-Wm 806.05(e).

(e) A person shall market hazardous waste fuel only:

(1) To persons who have notified the department of their hazardous waste fuel activities and have an EPA identification number; and

(2) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in Env-Wm 806.05(e).

(f) Before accepting the first shipment of hazardous waste fuel from another HWF marketer, the receiving HWF marketer shall provide the shipping HWF marketer with a one-time written and signed certification that the receiving HWF marketer has notified the department as specified in Env-Wm 806.04(b)(1) and Env-Wm 806.04(c) to identify hazardous waste fuel activities.

(g) In addition to the applicable recordkeeping requirements of Env-Wm 500 and Env-Wm 700, the HWF marketer shall keep, for 7 years from the date the HWF marketer last

engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice, a copy of each certification notice the HWF marketer receives or sends.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 806.05 Hazardous Waste Fuel Burner Requirements.

(a) "Hazardous Waste Fuel Burner (HWF Burner)" means any owner or operator of an industrial furnace or boiler identified in Env-Wm 806.05(e) that burns hazardous waste fuel.

(b) HWF burners shall:

(1) Notify the department of their hazardous waste fuel activities;
and

(2) Comply with the following storage requirements:

a. For accumulation for less than 90 days by generators who burn their hazardous waste fuel on site, the accumulation and storage requirements as set forth in Env-Wm 500;

b. For existing storage facilities, the applicable provisions of Env-Wm 300 and Env-Wm 700; and

c. For new storage facilities, the applicable provisions of Env-Wm 300 and Env-Wm 700.

(c) Even if the HWF burner has previously notified EPA or the department of hazardous waste management activities and obtained an EPA identification number, the HWF burner shall renotify to specifically identify hazardous waste fuel activities. Owners and operators of facilities who intend to burn hazardous waste fuel shall also obtain any required permits from ARD prior to burning such fuels.

(d) Before accepting the first shipment of hazardous waste fuel from a HWF marketer, the HWF burner shall provide the marketer a one-time written and signed notice certifying that:

(1) The HWF burner has notified the department of the burner's waste-as-fuel activities; and

(2) The HWF burner will burn the fuel only in a boiler or furnace as identified in Env-Wm 806.05(e).

(e) In addition to the applicable recordkeeping requirements of Env-Wm 500 and Env-Wm 700, a HWF burner shall keep, for 7 years from the date the burner last receives hazardous waste fuel from that marketer, a copy of each certification notice that the burner sends to a marketer.

(f) Hazardous waste fuel shall be burned for energy recovery in only the following devices:

(1) Industrial furnaces as defined in Env-Wm 110.01(c); or

(2) Boilers, as defined in Env-Wm 110.01(c), that are identified as follows:

a. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

b. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(g) No fuel which contains any hazardous waste shall be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000, based on the most recent federal census statistics, unless such kiln fully complies with Env-Wm 707.03(g) and Env-Wm 708.03(d)(7) as applicable to incinerators.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

PART Env-Wm 807 REQUIREMENTS FOR MANAGEMENT OF USED OIL BEING RECYCLED

Env-Wm 807.01 Applicability, Exemptions, and Prohibitions.

(a) Env-Wm 807 shall apply to all persons who generate, transport, collect and/or market used oil destined to be recycled by being burned for energy recovery or rerefined, and all persons who burn used oil fuel for energy recovery in accordance with Env-Wm 807.10, except where specifically exempted under Env-Wm 807.01(b).

(b) Persons generating used oil as a household waste shall be exempted from complying with the requirements of Env-Wm 807.

(c) Recycling of used oil shall be subject to the following prohibitions:

(1) Used oil, as defined in Env-Wm 110.01(c), shall not be applied to roads or other land areas for the purpose of dust suppression or any other reason. Use of used oil for such purposes shall be deemed to be disposal of hazardous waste;

(2) Off-specification used oil, as defined in Env-Wm 807.03(b) shall not be used as an automotive undercoating; and

(3) Used oil shall not be mixed with any other waste identified as a hazardous waste under Env-Wm 400, unless it is being purposely blended with hazardous waste in order to formulate a hazardous waste fuel to be burned pursuant to Env-Wm 806.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 807.02 Specification Used Oil. Used oil, as defined in Env-Wm 110.01(c), shall be classified as specification used oil if:

(a) The oil has not been mixed with hazardous waste; and

(b) The oil meets all of the standards in Table 8.1 below and does not otherwise exhibit any of the hazardous waste characteristics specified in Env-Wm 403:

<u>Table 8.1 Specification Used Oil Standards</u>	
Constituent/Property	Allowable Level (parts per million, dry weight basis)
Arsenic	5.0 parts per million maximum
Cadmium	2.0 parts per million maximum
Chromium	10 parts per million maximum
Lead	100 parts per million maximum
Flash point	100 degrees Fahrenheit minimum
Polychlorinated biphenyls (PCBs)	less than 2 parts per million
Total Halogens	1,000 parts per million maximum

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

Env-Wm 807.03 Off-specification Used Oil.

(a) Used oil, as defined in Env-Wm 110.01(c), shall be classified as off-specification used oil if:

(1) The oil does not meet the standards for specification used oil outlined in Env-Wm 807.02;

(2) The oil has not been mixed with hazardous waste; and

(3) The oil meets all of the standards in Table 8.2 below and does not otherwise exhibit any of the hazardous waste characteristics specified in Env-Wm 403:

<u>Table 8.2 Off-Specification Used Oil Standards</u>	
Constituent/Property	Allowable Level (parts per million, dry weight basis)
Arsenic	18.0 parts per million maximum
Cadmium	10.0 parts per million maximum
Chromium	35 parts per million maximum
Lead	1,000 parts per million maximum
Flash Point	100 degrees Fahrenheit minimum

(b) Used oil containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 2 parts per million shall be classified as off-specification used oil, and shall be subject to all requirements governing the management of off-specification used oil in Env-Wm 807. Used oil containing PCBs shall also be subject to regulation under the Toxic Substances Control Act and its rules codified under 40 CFR Part 761, 7-1-99 edition.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

Env-Wm 807.04 Used Oil Classified as Hazardous Waste.

(a) Used oil shall be classified as hazardous waste and shall be managed in accordance with the hazardous waste rules if it:

(1) Has been mixed with hazardous waste;

(2) Exhibits a hazardous waste characteristic as set forth in Env-Wm 403, except as provided for in Env-Wm 807.02 or Env-Wm 807.03; or

(3) Does not meet the standards for off-specification used oil specified in Env-Wm 807.03.

(b) Used oil classified as a hazardous waste pursuant to this section which is burned for energy recovery shall be managed as a hazardous waste fuel in accordance with Env-Wm 806.

(c) Used oil containing more than 1000 parts per million of total halogens shall be presumed by the department to be a hazardous waste on the basis that it has been mixed with halogenated hazardous waste listed in Env-Wm 400. Persons may rebut this presumption by providing conclusive information that the used oil has not been mixed with hazardous halogenated waste listed in Env-Wm 400.

(d) Used oil which is determined to be a hazardous waste under Env-Wm 807.04 shall not be blended to meet the standards outlined in Env-Wm 807.02 or Env-Wm 807.03.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 807.05 Sampling and Analytical Methods. Sampling and analysis of used oil shall be conducted in accordance with the sampling and analytical procedures identified in Env-Wm 401.04.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 807.06 Standards for Generators of Used Oil being Recycled.

(a) This section shall apply to:

(1) All persons who generate used oil which is destined to be burned for energy recovery or rerefined; and

(2) All persons, including municipalities, that collect used oil generated as a household waste as described in Env-Wm 807.01(b).

(b) Generators storing used oil on-site shall comply with the following requirements:

(1) Used oil shall be stored in containers which meet the U.S. department of transportation container specifications under 49 CFR 173, 7-1-99 edition, or in a structurally sound tank;

(2) Above ground tanks shall meet all applicable local ordinances and state laws pertaining to storage of petroleum products, including Fir 100 through Fir 700, State Fire Code;

(3) New and existing underground storage tanks shall be designed and operated in compliance with Env-Wm 1401, except that the exemption for tanks with a capacity less than 1100 gallons shall not apply;

(4) Used oil containers and tanks shall be clearly labeled with the words "Used Oil for Recycle" at all times during accumulation and storage;

(5) Generators shall ensure that containers or tanks are closed at all times, except when used oil is being added to or removed from the container or tank;

(6) All tanks and containers shall be maintained and operated so as to prevent spillage, seepage, or other discharge of used oil into storm or sanitary sewers, onto the land, or into ground or surface waters;

(7) Subject to Env-Wm 807.06(b)(9), generators shall conduct an initial used oil determination on their used oil by analyzing it for all of the parameters specified in Env-Wm 807.02 and Env-Wm 807.03, except that generators may omit the analysis for polychlorinated biphenyls (PCBs) if no sources of PCBs are present in the process generating the used oil;

(8) The analysis shall be repeated whenever the process generating the used oil changes, or the oil has been mixed with other materials. In cases where used oils from two or more different sources are collected in one container or tank in proportions which vary over time, the generator shall conduct analyses with sufficient frequency to ensure that the oil is correctly classified before being offered for transport;

(9) Municipalities that collect used oil generated as a household waste and generators of used oils that are comprised solely of used automotive oils may omit the initial used oil determination required by Env-Wm 807.06(b)(7) and (8) if the municipality or generator ensures that the oil is not mixed with any other types of oil or wastes. For the purposes of this exemption, automotive oil means motor, engine, and gear oils, and transmission and brake fluids;

(10) Generators shall not mix used oil with any other hazardous waste;

(11) Generators shall deliver used oil to a facility authorized to accept used oil, or burn the used oil on-site in accordance with Env-Wm 807.10;

(12) Subject to Env-Wm 807.06(b)(14), used oil shall be transported by duly registered hazardous waste transporters only, using a 3 copy bill of lading containing the information outlined in Env-Wm 807.06(b)(13);

(13) Bills of lading shall include the following information:

- a. A shipment number unique to each shipment;
- b. The name and site address of the generator/shipper, transporter/carrier, and receiving facility/consignee;
- c. The EPA identification numbers of the shipper, if the shipper is required by Env-Wm 504 to have a number, the transporter, and the receiving facility;
- d. The quantity of used oil to be delivered;
- e. The date(s) of shipment and delivery; and
- f. The following statement signed by the generator:
"This used oil is destined to be recycled and is subject to regulation by the New Hampshire department of environmental services under Env-Wm 807. I certify that this used oil is not a hazardous waste fuel as defined in Env-Wm 807.04 and that I have not mixed this used oil with any other hazardous wastes identified in Env-Wm 400

or any used oil classified as hazardous waste fuel under Env-Wm 807.04";

(14) If used oil is being shipped to another state that regulates used oil as a hazardous waste, a hazardous waste manifest may be used in lieu of a bill of lading;

(15) Generators who market their used oil directly to a burner shall comply with Env-Wm 807.09;

(16) Generators who burn their own used oil shall comply with Env-Wm 807.10; and

(17) Generators shall maintain on file copies of all bills of lading or used oil analyses for three years from the date of shipment or analysis.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

Env-Wm 807.07 Standards for Transporters of Used Oil Being Recycled.

(a) Beginning July 1, 1991, transporters of used oil being recycled shall be subject to all of the requirements for hazardous waste transporters under Env-Wm 600, except that generators transporting up to 110 gallons at a time of their own used oil shall be exempt from complying with Env-Wm 600. Generators transporting their own oil shall comply with Env-Wm 807.07(b) and (c).

(b) A bill of lading shall be used for transportation of used oil in accordance with Env-Wm 807.06(b)(13) in lieu of the uniform hazardous waste manifest required by Env-Wm 604, except in cases where used oil is being shipped to another state or jurisdiction that regulates used oil as a hazardous waste and requires the use of a hazardous waste manifest.

(c) A transporter shall keep a copy of the bill of lading for each shipment on file for 3 years from the date of shipment. The 3 year record retention period shall be extended during the course of any enforcement action until such action has been resolved.

(d) An annual used oil activity report, which summarizes a transporter's used oil transportation activity during the calendar year, January 1-December 31, shall be submitted by any registered transporter who transported used oil pursuant to section Env-Wm 807.07 in that calendar year.

(e) The report shall include the following information on a form provided by the department:

(1) The name, New Hampshire transporter registration number, and EPA identification number of the transporter;

(2) The reporting year; and

(3) The total amount of used oil which has been transported within the reporting year, which shall include:

a. The total amount of specification used oil pursuant to Env-Wm 807.02; and

b. The total amount of off-specification used oil pursuant to Env-Wm 807.03.

(f) A responsible company official shall attest in writing to the accuracy of the report.

(g) The report shall be submitted to the department by March 1 of the year immediately following the report year.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6385-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 807.08 Identification of Marketers of Used Oil Being Recycled.

(a) Used oil marketers shall be identified in accordance with the following:

(1) The following persons shall be deemed to be used oil marketers:

a. Generators who market their used oil directly to a burner;

b. Persons who receive used oil from generators and produce, process, or blend used oil fuel from the used oils received, including persons sending blended or processed used oil to brokers or other intermediaries; and

c. Persons, including transporters who take ownership of the oil they collect, who distribute but do not process or blend used oil.

(2) Subject to Env-Wm 807.08(b), the following persons shall not be classified as used oil marketers unless they transfer their used oil directly to a person who burns it for energy recovery:

a. Used oil generators; and

b. Transporters who transport used oil received only from generators.

(b) Persons who burn some used oil fuel for the purposes of processing or other treatment to produce used oil fuel for marketing shall be considered to be burning incidentally to processing. Generators, and transporters who collect used oil only from generators, who transfer used oil to such incidental burners shall not be marketers and shall not be subject to Env-Wm 807.09.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 807.09 Standards for Marketers of Used Oil Being Recycled.

(a) This section shall apply to all used oil marketers as defined in Env-Wm 807.08.

(b) Used oil marketers shall comply with the following requirements:

(1) Used oil marketers shall notify the department of the location and general description of their used oil management activities, using a notification form provided by the department as set forth in Env-Wm 504 and Env-Wm 702;

(2) Even if a used oil marketer has previously notified the department or EPA of hazardous waste management activities pursuant to Env-Wm 504 or Env-Wm 702 and obtained an EPA identification number, the marketer shall renotify to specifically identify the used oil management activities;

(3) Marketers shall perform sampling and analyses, in accordance with Env-Wm 807.05, for the parameters specified in Env-Wm 807.02 and Env-Wm 807.03 on used oil being marketed;

(4) A unique number or code shall be assigned to each batch of used oil tested. The number or code shall be recorded on the corresponding analytical reports and on the bill(s) of lading or

hazardous waste manifest(s) documenting shipment(s) of that batch;

(5) If a previously tested batch is subsequently mixed with more used oil, a new number or code shall be assigned to the batch and testing shall be repeated prior to marketing;

(6) Marketers may market specification or off-specification used oil subject to the following restrictions:

a. Off-specification used oil shall be marketed only to rerefiners or to owners and operators of burning devices identified in Env-Wm 807.10(b)(4), or to other marketers; and

b. Specification used oil shall be marketed only to rerefiners or to owners and operators of burning devices identified in Env-Wm 807.10(b)(5), or to other marketers;

(7) When initiating a shipment of used oil, a marketer shall utilize a 3 copy bill of lading as described in Env-Wm 807.06(b)(13);

(8) In addition to the information required under Env-Wm 807.06(b)(13), the marketer shall indicate the batch code or number corresponding to the batch being shipped and whether the oil is specification or off-specification used oil;

(9) A copy of the analytical report shall accompany the bill of lading;

(10) The marketer, transporter, and the receiving facility shall each receive and maintain on file a copy of the bill of lading;

(11) The following notices shall be required:

a. Before initiating the first shipment of used oil to a burner, rerefiner, or other marketer, the marketer shall obtain a one-time written and signed notice from the recipient certifying that:

1. The recipient of the used oil has notified the department of the recipient's used oil management activities; and

2. If the recipient is a burner, the recipient will burn the used oil only in a device allowed under Env-Wm 807.10; and

b. Before accepting the first shipment of used oil from another marketer subject to the requirements of this section, the receiving marketer shall provide the shipping marketer with a one-time written and signed notice certifying that the receiving marketer has notified the department of the receiving marketer's used oil management activities;

(12) A marketer shall keep the following records on file:

a. A copy of each certification notice that the marketer receives or sends for 3 years from the date the marketer last engages in a used oil marketing transaction with the person who sends or receives the certification notice;

b. Copies of all used oil analysis reports for 3 years from the date that the oil is marketed to another marketer, rerefiner, or burner;

c. A copy of each bill of lading for 3 years from the date of shipment; and

d. An operating log, with the following information regarding each shipment of used oil fuel, for 3 years from the date of shipment:

1. The name and address of the facility receiving the shipment;

2. The quantity of used oil fuel delivered;

3. The date of shipment or delivery; and

4. A cross-reference to the record of the used oil analysis, including the batch code or number; and

(13) The 3 year record retention period specified in Env-Wm 807.09(b)(12) shall be extended during the course of any enforcement action until such action has been resolved.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 807.10 Standards for Burners of Used Oil Fuel.

(a) For the purpose of this section, "Used oil fuel burner (UOF Burner)" means any owner or operator of an industrial furnace, boiler, or space heater identified in Env-Wm 807.10(b) that burns used oil fuel.

(b) UOF burners shall comply with the following standards:

(1) UOF burners shall notify the department of their used oil management activities using a form provided by the department as set forth in Env-Wm 504 and Env-Wm 702;

(2) Even if a UOF burner has previously notified the department or EPA of the burner's hazardous waste management activities pursuant to Env-Wm 504 or Env-Wm 702 and obtained an EPA identification number, the burner shall renotify to identify the used oil management activities;

(3) Owners and operators of facilities who intend to burn used oil fuel shall also notify the department's air resources division to secure any required permits prior to burning such fuels;

(4) Off-specification used oil fuel shall be burned only in the following devices:

a. Industrial furnaces as defined in Env-Wm 110.01(c); or

b. Boilers, as defined in Env-Wm 110.01(c), that are identified as follows:

1. Industrial boilers possessing a heating capacity in excess of 10 million Btu per hour and located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

2. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale;

- c. Used oil fired space heaters, provided that:

1. The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour;

2. Combustion gases from the heater are vented to the outside ambient air; and

3. The burner burns only used oil that is generated on site;

(5) Specification used oil fuel shall be burned only in the following devices:

- a. Oil furnaces and boilers, except those located at private residences, hotels, motels, apartment buildings, and residential institutions including hospitals, residential treatment facilities, and retirement homes; or

- b. Used oil fired space heaters, provided that the heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour, and combustion gases from the heater are vented to the outside ambient air;

(6) Used oils containing greater than or equal to 2 ppm PCBs shall be burned only in units allowed under 40 CFR 761.60, 7-1-99 edition, pursuant to the Toxic Substances Control Act;

(7) UOF burners shall perform analyses of the oil for the parameters outlined in Env-Wm 807.02 and Env-Wm 807.03, unless:

- a. The UOF burner has received the used oil fuel from a UOF marketer that has tested the batch in question and has provided a copy of the analytical report for same to the burner;

- b. The UOF burner is burning only used automotive oil that is generated on-site; or

c. The UOF burner is burning only used oil collected from persons generating the oil as a household waste;

(8) Before accepting the first shipment of off-specification used oil fuel from a marketer, the UOF burner shall provide the marketer a one-time written and signed notice certifying that:

a. The burner has notified the department of the location and general description of the burner's used oil management activities; and

b. The burner will burn the used oil only in a device specified under this section;

(9) A UOF burner shall keep the following records on file:

a. A copy of each certification notice that the burner sends to a marketer for 3 years from the date the burner last receives used oil fuel from that marketer;

b. Copies of all used fuel analysis reports for 3 years from the date that the oil is received at the burner's facility; and

c. A copy of each bill of lading for 3 years from the date that the oil is received at the burner's facility; and

(10) The 3 year record retention period specified in Env-Wm 807.10(b)(9) shall be extended during the course of any enforcement action until such action has been resolved.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; amd by #7578, eff 10-13-01

PART 808 RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY

Env-Wm 808.01 Precious Metals. "Recyclable materials utilized for precious metal recovery" means recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, palladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 808.02 Generator Requirements. Persons who generate recyclable materials that are regulated under Env-Wm 808 shall be subject to the following requirements:

- (a) Notification requirements of Env-Wm 500; and
- (b) Manifest requirements of Env-Wm 500.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 808.03 Transporter Requirements. Persons who transport recyclable materials that are regulated under Env-Wm 808 shall be subject to the following requirements:

- (a) Notification requirements of Env-Wm 603;
- (b) Manifest requirements of Env-Wm 604;
- (c) Delivery requirements of Env-Wm 606; and
- (d) Registration requirements of Env-Wm 609.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

Env-Wm 808.04 Storage Facility Requirements. Persons who store recyclable materials that are regulated under Env-Wm 808 shall be subject to the following requirements:

- (a) Notification requirements of Env-Wm 700;
- (b) Manifest requirements of Env-Wm 700; and
- (c) The following record maintenance requirements, to document that the materials are not being accumulated speculatively, as determined under Env-Wm 811:
 - (1) Records shall be kept that show the volume of these materials stored at the beginning of the calendar year;
 - (2) Records shall be kept that show the amount of these materials generated or received during the calendar year; and
 - (3) Records shall be kept that show the amount of materials remaining at the end of the calendar year.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

Env-Wm 808.05 Speculative Accumulation of Recyclable Materials Utilized for Precious Metal Recovery. Recyclable materials regulated under Env-Wm 808 that are accumulated speculatively, as determined under Env-Wm 811, shall be regulated as hazardous wastes and shall be subject to the hazardous waste rules.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00

Env-Wm 808.06 Case-by-Case Regulation of Recyclable Materials Utilized for Precious Metal Recovery.

(a) Notwithstanding the provisions of Env-Wm 804.02(e), persons accumulating or storing recyclable materials utilized for precious metal recovery shall be regulated under Env-Wm 500, Env-Wm 600 and Env-Wm 700, if the materials are being stored or accumulated in a manner that does not protect human health and the environment.

(b) In accordance with the procedures of 40 CFR 260.41, 7-1-99 edition, the commissioner, or designee, shall decide on a case-by-case basis whether persons accumulating or storing recyclable materials from which precious metals are reclaimed shall be regulated under Env-Wm 500, Env-Wm 600, and Env-Wm 700.

(c) The basis for imposing increased regulation shall be that the materials are being accumulated or stored in a manner that does not protect human health and the environment because:

- (1) The materials or their toxic constituents have not been adequately contained; or
- (2) The materials being accumulated or stored together are incompatible.

(d) In making the decision to impose increased regulation, the commissioner shall consider the following factors:

- (1) The types and amounts of materials being accumulated or stored;
- (2) The method of accumulation or storage;
- (3) The length of time the materials have been accumulated or stored before being reclaimed;

(4) Whether any contaminants are being released into the environment, or are likely to be so released; and

(5) Other factors relating to the materials' impact on public health and the environment.

(e) Prior to imposing increased regulation, the commissioner shall notify the person and provide the person with an opportunity for a hearing to show cause why the increased regulation should not be imposed. Hearings held pursuant to this section shall be conducted in accordance with Env-C 204.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00

PART Env-Wm 809 SPENT LEAD-ACID BATTERIES BEING RECLAIMED

Env-Wm 809.01 Applicability.

(a) Env-Wm 809 shall apply to:

(1) Persons who generate or collect spent lead-acid batteries destined for reclamation;

(2) Persons who transport spent lead-acid batteries destined for reclamation; and

(3) Persons who reclaim spent lead-acid batteries.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

Env-Wm 809.02 Generators and Collectors. Persons who generate or collect spent lead-acid batteries destined for reclamation shall store the batteries in a manner designed to ensure that the battery housings do not break or leak acid onto the soil or into any groundwaters or surface waters, but shall not otherwise be subject to the hazardous waste rules.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

Env-Wm 809.03 Transporter Requirements. Transporters of lead-acid batteries destined for reclamation shall:

(a) Ensure that the batteries are loaded and braced so as to prevent damage and short circuits while in transit;

(b) Comply with the DOT requirements specified in 49 CFR 173.159(e), 10-1-01 edition; and

(c) Comply with the requirements set forth in Saf-C 600.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #7207-B, eff 2-26-00; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

Env-Wm 809.04 Reclamation Facility Requirements. Owners and operators of facilities that reclaim spent lead-acid batteries and store the spent batteries prior to reclamation shall be subject to the following requirements:

(a) Storage facility permit requirements under Env-Wm 353; and

(b) Facility requirements as set forth in Env-Wm 700, except for:

(1) The waste analysis requirements of Env-Wm 707.02(b) and Env-Wm 708.02(b); and

(2) The manifest requirements of Env-Wm 703.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00; ss by #7578, eff 10-13-01

PART Env-Wm 810 WAIVERS

Env-Wm 810.01 Waivers. Waivers from classification as a waste or as a boiler as set forth in Env-Wm 800 shall be granted by the department in accordance with the provisions of Env-Wm 212.

[Source.](#) (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; ss by #7333, eff 8-1-00

PART Env-Wm 811 SPECULATIVE ACCUMULATION

Env-Wm 811.01 Identification of Speculative Accumulation. A material that is accumulated before being recycled shall be deemed to be accumulated speculatively, unless the person accumulating the material can show that:

(a) The material has potential to be recycled;

(b) A feasible means of recycling exists for the material; and

(c) During the calendar year commencing on January 1, the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period.

(d) The calculation shall be made in accordance with the following:

(1) In calculating the percentage of turnover, the 75 percent requirement shall be applied to each material of the same type that is recycled in the same way; and

(2) Materials exempt under Env-Wm 401.03(b)(11) shall not be included in making the calculation.

Source. (See Revision Note at PART Heading for Env-Wm 110) #5053, eff 1-24-91; ss by #5886, eff 8-26-94; amd by #6384-B, eff 11-26-96; ss by #7333, eff 8-1-00